

TESTIMONY OF DIRECTOR JOHN B. ROGERS  
DEPARTMENT OF PUBLIC SAFETY  
MAINE CRIMINAL JUSTICE ACADEMY

NFNA L.D. 1475

"An Act to Eliminate Profiling in Maine"

Sponsored by: Rep. Hickman of Winthrop  
Cosponsored by: Sen. Miramant of Knox  
Sen. Moore of Washington  
Sen. Woodsome of York  
Rep. Bailey of Saco  
Rep. Collins of Portland  
Rep. Dunphy of Old Town  
Rep. Evangelos of Friendship  
Rep. Meyer of Eliot  
Rep. Talbot Ross of Portland

Before the Joint Standing Committee on Judiciary

Hearing Date: May 13, 2019 at 9:00 a.m. in Room 438, State House

Rep. Hickman, Sen. Carpenter, Rep. Bailey and members of the Joint Standing Committee on Judiciary. My name is John B. Rogers and I am the Director of the Maine Criminal Justice Academy, representing the Maine Department of Public Safety.

I am here today to testify Neither For Nor Against to LD 1475, "An Act to Eliminate Profiling in Maine.

This bill is requiring policies for 164 law enforcement agencies in Maine to eliminate profiling, require annual anti-profiling training of 3680 law enforcement officers (2901 F/T and 770 P/T), collect data on literally hundreds of thousands of police/public contacts in Maine made by law enforcement officers. This data collection includes data on: race, gender, ethnicity, religion, socioeconomic status, ancestry or national origin "as perceived by the officer" including date, time, location and sufficient detail to be captured and entered into a local database and then transferred to the AG's Office, DPS and the Maine Human Rights Commission.

This bill also requires the Office of the Attorney General to analyze the data for all these police/public interactions and calculate a "hit rate" and the frequency of the searches performed, and then to write and submit a report by 10/15/2021 and annually thereafter to the Joint Standing Committees on Judiciary and Criminal Justice, the Department of Public Safety and the Maine Human Rights Commission.

In 2009, the Maine Legislature enacted 25 M.R.S., chapter 355 by establishing an “Advisory Committee on Bias-Based Profiling by Law Enforcement Officers and Law Enforcement Agencies.” Rep. Rachel Talbot Ross and then DPS Commissioner Ann Jordan and later John Morris served as co-chairs. This Bias-Based Profiling Committee was made up of 16 members with half being represented by different civil rights organizations and a Maine tribal organization, while the other half represented law enforcement, police labor and I served as the representative from the Academy. The committee met 20 times from 3/5/2010 until 1/20/2012, and another 9 times from 10/20/2010 to 10/7/2011 in Public Engagement, Agenda and Outreach subcommittee meetings. The committee took testimony, looked very hard at bias-based profiling data collection from both collection methods (officer asking the questions and officers guessing), to the difficulty of integrating a record management systems and to the extremely large cost of integrating agency systems. At that time, we determined that there were 13 different RMS systems in local police agencies representing 133 agencies and the rest were still operating with paper reporting systems.

In the end, the Bias-Based Profiling Committee agreed that the MCJA Board of Trustees would develop a model policy (Board standards for the Maine Chiefs Model policy). These standards included prohibitions that officers can not engage in bias-based profiling, that all agencies have a civil rights officer trained to investigate all bias motivated crimes or incidents, and that all bias incidents be report to the local District Attorney and the Office of the Attorney General. This was done on 10/13/2013. The Academy Board was also required to adopt a training program on Cultural Diversity and Bias-Based Policing. This was completed and required of all F/T and P/T officers in 2013.

The Bias-Based Profiling Committee was unable to come up with a data collection system that was fair, accurate and most of all not offensive to the public we serve and could not come up with a fiscally responsible integrated RMS system to collect the data and analyze it. The biggest hurdle came from the content expert on data collection that was brought in from another State on the actual data collection itself. One way was for the officer to ask for the information, which offended many people. The second had the officer taking educated guesses to answer the questions, much like this LD is asking for which is extremely inaccurate and fraught with the individual officer’s own biases.

I would rather teach officers to not profile or be bias in any way by training them to treat everyone equally no matter what color skin they have, no matter what gender they identify as, no matter how much money they make, or what religion they’ve chosen to follow. I would also rather require law enforcement agencies to prohibit this practice by using the mandatory policy standards set by the Academy Board in the Hate or Bias Crimes policy that was already set in statute by this legislature in the mid 1990’s. Finally, this LD could be incredibly cost prohibitive given its data collection mandates and the difficulties the criminal justice system has with integrating RMS systems.

In closing, I would be happy to answer any questions you may have, either now or at any future work session.